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where the report was filed in the county to which the principal business office had, in fact, been legally removed, though the certificate of incorporation still stated it to be in the county where it had originally been located.

In a dissenting opinion, *People v. Barker*, 87 Hun. 342; *Transportation Co. v. Scheu*, 19 N. Y. 410, and *Factory v. Dolloway*, 21 N. Y. 449, are cited as being directly opposed to this decision. These cases, and many others in New York, assert emphatically that the statement in the certificate of incorporation is conclusive as to the location of the principal business office. The majority of the court, however, holds that what was said in those cases related to the domicile of the corporation for the purpose of taxation only, and says that, since the present action is brought under a penal statute, a rule more favorable to the defendant applies, the change of location being perfectly legal, and no fraud appearing.

DAMAGES—MENTAL ANGUISH—WESTERN UNION TEL. CO. v. HINES, 54 S. W. (Ky.) 627.—A telegram given to defendant for transmission, reading: "Mother started at nine to-night," was delivered to plaintiff in a changed form, so that it read: "Mother died at nine to-night," *Held*, that damages for \$780 for mental anguish was not excessive.

The weight of authority does not recognize mental anguish unaccompanied by physical injury, as a ground of recovery, but in many of the Southern States the courts hold that damages for mental suffering should be allowed in just cases, though unaccompanied by physical suffering. This rule is now firmly established in Texas, Alabama, Iowa, Indiana, North Carolina and Tennessee.

Kentucky limits the application of the rule to the "nearest degree of blood relationship."

DEEDS—PRESUMPTION AS TO ACCEPTANCE—PORT JERVIS NATIONAL BANK v. BONNELL, 61 N. Y. Sup. 521.—Where a mother, in consideration of a debt due to her daughter, executes and records a deed to the daughter without her knowledge, and delivers it to a third party, reserving no further control over it, the estate passes, as the daughter's acceptance of the deed is presumed from the fact that the conveyance is to her benefit.

The general rule is that the law presumes that a deed clearly beneficial to the grantee is accepted by him when it is placed in the hands of some third party for his use and benefit. *Moore v. Giles*, 49 Conn. 570; *Cram v. Wright*, 114 N. Y. 307; *Hedge v. Drew*, 12 Pick. (Mass.) 141.

Some authorities dissent from this view, holding that evidence of acceptance or some other act equivalent to acceptance is necessary. *Building Association v. Heil*, 81 Ky. 513; *Maynard v. Maynard*, 10 Mass. 456; Cf. 3, Washburn on Real Property, bk. III c. 4. § 2 (Fifth Edition). Hopkins on Real Property says, at p. 435, "There may be a presumption of acceptance from the beneficial character of the instrument, but this presumption does not obtain unless the grantee had knowledge of the existence of the deed." *Jackson v. Phipps*, 12 Johns. (N. Y.) 418; *Younge v. Guilbeau*, 3 Wall. 636; *Fisher v. Hall*, 41 N. Y. 416.

FACTORS—UNAUTHORIZED SALE OF GOODS—BONA FIDE PURCHASER—ROMEO v. MARTUCCI, 45 Atlan. 1 (Conn.).—The plaintiff, a wholesale grocer, shipped goods to Ricciardelli & Bro., to be sold by them in their business as retail grocers, an accounting to be made by them for the proceeds of such sales; the title to said goods to remain in the plaintiff until the same were sold. The defendant bought out the business and stock of R. & Bro. in good faith. *Held*, in an action of replevin to recover possession of plaintiff's goods, that the relation between the plaintiff and R. & Bro. is that of principal and factor; that the consignee having transferred the

property out of his usual course of business, the consignor is entitled to retake the property even from a bona fide purchaser for value; that the consignor is not estopped from setting up his title inasmuch as he has done nothing inconsistent with the real transaction between himself and his factor. Andrews, C. J., and Hall, J., dissented.

The general rule is that where the goods are to be sold by the party receiving them on his own account, the owner merely reserving title until the purchase money is paid, the transaction is a conditional sale and not a consignment, and hence under statute in most States is an absolute sale as to third parties unless recorded. But it has also been held that a purchaser of the entire stock will not be so protected, nor will a purchaser not in the regular course of trade. *Burbank v. Crooker*, 7 Gray 158; *Praitt v. Burhans*, 84 Mich. 489.

INJUNCTION—GROUNDS—THREATENING SUITS FOR INFRINGEMENT OF PATENTS—ADRIANCE, PLATT & CO. v. NATIONAL HARROW CO., 98 Fed. 118. —An owner of a patent published letters and circulars asserting the validity of his patent, that another manufacturer infringed it, and that any one who purchased the infringing article would be sued by the owner of the patent. *Held*, that a bill asking for an injunction against such circulars cannot be dismissed on demurrer.

This decision recognizes that equity may have jurisdiction to enjoin a party from advertising his goods. It all depends upon whether the advertisement uses false, malicious, offensive or opprobrious language, with the purpose of injuring the party claimed to be infringing. *Kelly v. Ypsilanti Dress-Stay Manuf. Co.*, 44 Fed. 19. In view of the undoubted right every one has to advertise his goods so long as he does it in good faith, and of the adequate remedy at law which the plaintiff may claim, if in such advertisement anything libelous has been published, courts are bound to consider such questions as this with great care. There is little law as yet on this subject, but since the case of *Kidd v. Horry*, 28 Fed. 773, courts seem inclined to recognize the jurisdiction of equity in cases where a malicious motive and bad faith are clear.

INN-KEEPERS—LIABILITY FOR GOODS OF GUEST—MISCONDUCT OF GUEST—LUCIA v. ORNEL, 61 N. Y. Sup. (App. Div.) 659.—The plaintiff, a guest in a hotel, took a woman of ill-fame to his room with him for consort, who absconded with a sum of his money. Plaintiff then requested the hotel clerk to keep the remainder of his money for him, but the clerk refused to do so, and after plaintiff went back to his room, the balance of his money was stolen from him. *Held*, that plaintiff's misconduct and immorality did not bar him from recovering the balance, subsequently stolen.

Curtis v. Murphy, 63 Wis. 4, holds that if a man takes a woman to a hotel for the purpose of prostitution, he does not thereby acquire the rights of a guest. But this does not apply in the present case, as the man was not robbed while occupying the room with the strumpet, but afterwards.

PARTIES—ACTION BY MARRIED WOMAN—LOSS OF EARNING CAPACITY—TEXAS R. R. CO. v. HUMBLE, 97 Fed. 837.—A married woman sued for personal injury independently of her husband. *Held*, that she could recover damages for the impairment of her earning capacity, and that this recovery was one in which the husband had no interest.

The present case brings out a distinction that is a source of some confusion, the difference between an impairment of a married woman's earning capacity and her capacity to render services to her husband and family. In the latter case the husband has the right to sue for the injury, not the woman. *R. R. Co. v. Hensen*, 58 Fed. 531. But her capacity to earn money may